

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:

UNION PACIFIC RAILROAD COMPANY,)
A DELAWARE CORPORATION,)

Petitioner) No. T12-0167

VS

VILLAGE OF LOMBARD, AN ILLINOIS)
MUNICIPAL CORPORATION)

Respondent)

Petition for an order of the Illinois Commerce Commission authorizing the construction of a pedestrian underpass crossing in conjunction with the Lombard Metra Station and Platform Rehabilitation Project between Michael McGuire Drive to the north and West Parkside Avenue to the south in the Geneva subdivision located in the Village of Lombard, DuPage County, Illinois and assigning construction costs and maintenance responsibility.

Chicago, Illinois
January 31st, 2013

Met, pursuant to notice, at 10:00 a.m.

BEFORE :

MS. LATRICE KIRKLAND-MONTAQUE, Administrative Law
Judge

1 APPEARANCES:
2 UNION PACIFIC RAILROAD COMPANY
BY: MR. MACK SHUMATE, JR.
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5 for Union Pacific Railroad Company
6 KLEIN, THORPE & JENKINS
BY: MR. GREGORY T. SMITH
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9 for the Village of Lombard
10 ILLINOIS COMMERCE COMMISSION
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13 for the Illinois Commerce Commission
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I N D E X

			Re-	Re-	By
Witnesses:	Direct	Cross	direct	cross	Examiner
Claire Anderson	8				
		33			
Christopher Miller	35				
		43			
			45		
		46			
David Dratnol	47				

E X H I B I T S

Number	For Identification	In Evidence
UP No. 1	10	60
UP No. 2	29	60
UP No. 3	29	60
UP No. 4	30	60
Village No. 1	48	

1 JUDGE KIRKLAND-MONTAQUE: By the
2 power vested in me by the State of Illinois and
3 the Illinois Commerce Commission, I now call
4 Docket T12-0167 for hearing. This is in the
5 matter of the Union Pacific Railroad Company,
6 petitioner, versus the Village of Lombard and
7 the -- we are here on a petition for an order of
8 the Illinois Commerce Commission authorizing the
9 construction of a pedestrian underpass crossing in
10 conjunction with the Lombard Metra Station and
11 Platform Rehabilitation Project between Michael
12 McGuire Drive to the north and West Parkside
13 Avenue to the south in the Geneva subdivision
14 located in the Village of Lombard, DuPage County,
15 Illinois and assigning construction costs and
16 maintenance responsibility.

17 Let's have appearances. Let's
18 start with Union Pacific.

19 MR. SHUMATE: Thank you, your Honor.
20 My name is Mack, M-A-C-K, Shumate, S-H-U-M-A-T-E,
21 Junior. I'm an attorney for the Union Pacific
22 Railroad Company. Our offices are at 101 North

1 Wacker Drive, Suite 1920, Chicago, Illinois 60606.
2 I represent the petitioner Union Pacific Railroad
3 Company.

4 JUDGE KIRKLAND-MONTAQUE: Okay.
5 Village of Lombard?

6 MR. SMITH: Good morning, your
7 Honor. My name is Greg T. Smith. I'm an attorney
8 with the law firm of Klein, Thorpe & Jenkins and I
9 am representing the Village of Lombard, the
10 respondent in this matter, and also with me today
11 is David Dratnol, D-R-A-T-N-O-L. Mr. Dratnol is
12 the village engineer.

13 JUDGE KIRKLAND-MONTAQUE: Staff?

14 MR. SMITH: Thank you.

15 MR. VERCRUYSSSE: Thank you, your
16 Honor. Good morning. Brian Vercruysse
17 representing the Rail Safety Section of the
18 Illinois Commerce Commission. My phone number is
19 (312) 636-7760. Thank you.

20 JUDGE KIRKLAND-MONTAQUE: Okay. All
21 right. Mr. Shumate, are you going to have a
22 witness today?

1 MR. SHUMATE: Yes, we're going to
2 have two witnesses. We have Claire Anderson who
3 is an engineer in our commuter services division
4 and we also have Chris Miller. He is also in the
5 engineering department if we have some additional
6 questions from the field that he can answer if
7 necessary.

8 JUDGE KIRKLAND-MONTAQUE: Why don't
9 you two stand up. Mr. Dratnol, why don't you
10 stand up as well. Raise your right hand.

11 WHEREUPON:

12 DAVID DRATNOL, CLAIRE ANDERSON and CHRIS MILLER
13 called as witnesses herein, having been first duly
14 sworn, deposeth and saith as follows:

15 JUDGE KIRKLAND-MONTAQUE: You may be
16 seated and I will give the floor to Mr. Shumate.

17 MR. SHUMATE: Thank you, your Honor.
18 Just a quick opening statement here. This
19 petition is for a public underpass at the
20 remodeled Metra station in the Village of Lombard
21 in DuPage County. It is going to replace a
22 pedestrian crossing that is literally on the

1 surface between the two station platforms. It has
2 a DOT number of 748281F. It will be much safer we
3 believe to have the underpass as opposed to having
4 passengers between active tracks. There are three
5 main tracks at this location.

6 There will be some additions
7 made to the underpass at the request of the
8 Village of Lombard. Construction will be
9 performed by Metra. They will actually build the
10 underpass on our property and the Village of
11 Lombard and Metra will have an agreement with
12 regard to esthetic treatments and other safety
13 items that they want in the tunnel for their
14 citizens and they will also have maintenance
15 responsibilities within the tunnel. And to give
16 them access to the railroad property, the Union
17 Pacific will grant a permanent license to the
18 Village of Lombard to be able to access the tunnel
19 underneath the tracks to change light bulbs, clean
20 drains, things of that nature. Whatever might be
21 necessary. And my first witness will be Claire
22 Anderson.

1 JUDGE KIRKLAND-MONTAQUE: Okay.

2 MR. SHUMATE: I'd like to call

3 Claire Anderson.

4 D I R E C T E X A M I N A T I O N

5 BY MR. SHUMATE

6 Q. Claire, would you state your name
7 for the record and spell it?

8 A. Claire, C-L-A-I-R-E, Anderson,
9 A-N-D-E-R-S-O-N.

10 Q. Okay.

11 MR. SHUMATE: Can everyone hear
12 Claire?

13 MR. VERCRUYSSSE: Yes, thank you.

14 BY MR. SHUMATE:

15 Q. Claire, by whom are you currently
16 employed?

17 A. Union Pacific Railroad.

18 Q. And what is your title at the
19 railroad now?

20 A. Manager of field engineering.

21 Q. And how long have you worked for the
22 Union Pacific Railroad and/or its predecessors?

1 A. Five and a half years.

2 Q. What is your educational background

3 A. I have a BS in civil engineering.

4 Q. And what division of the Union

5 Pacific Railroad do you work for?

6 A. Do you mean commuter or engineering?

7 Q. Just --

8 A. Engineering department.

9 Q. Okay. And are you assigned to the

10 commuter operations section?

11 A. Yes.

12 Q. And are you familiar with the

13 subject matter of today's petition?

14 A. Yes.

15 Q. Did you help prepare some of the

16 exhibits that will be presented today?

17 A. Yes.

18 Q. Have you had an opportunity to

19 review them all?

20 A. Yes.

21 Q. Okay. I'm going to show you a slide

22 here. It's entitled Site Location. For purposes

1 of the record, it's part of Union Pacific Group
2 Exhibit 1 and it's slide number two.

3 (Document marked as UP Exhibit
4 No. 1 for identification.)

5 BY MR. SHUMATE:

6 Q. Are you familiar with this?

7 A. Yes.

8 Q. Feel free to walk and you can show
9 this to everyone. Where is the location of the
10 proposed underpass?

11 A. It is to the right of the existing
12 pedestrian rail crossing approximately somewhere
13 right here.

14 Q. Okay. So it shows that there is an
15 existing pedestrian rail crossing and where is
16 that at?

17 A. Right here.

18 Q. And that's the one that will be
19 removed?

20 A. Yes.

21 Q. And it will be replaced with this
22 underpass, is that correct?

1 A. Yes.

2 Q. For purposes of the record, this
3 speaks for itself, but the location of the
4 proposed underpass would be east of South Park
5 Avenue, is that correct?

6 A. Yes.

7 Q. I want to show you another slide
8 here. Now, would you tell us what this slide UP 3
9 shows?

10 A. This is just depicting exactly where
11 the tunnel is at. You're looking south from the
12 north side of the tracks. The pedestrian crossing
13 that I pointed out on the other one is on the
14 right-hand side to the west of this picture.

15 MR. SHUMATE: Can we turn down the
16 lights for a second?

17 BY THE WITNESS:

18 A. I can say that again.

19 BY MR. SHUMATE:

20 Q. It's fine. It's hard to see here.

21 A. You can see this red mark right here
22 and there. That's where the tunnel will be.

1 Q. So for purposes of the record on UP
2 3 there are two red marks on a brick wall that
3 show the approximate location of where the tunnel
4 will go and will it be at that level or will it be
5 lower than that?

6 A. It will be below grade.
7 Underground.

8 Q. Now, I'm showing you what has been
9 marked as UP Slide 4 in Group Exhibit 1, what is
10 this?

11 A. This is showing you where the tunnel
12 will be basically from on top.

13 Q. So it will be underneath this track
14 at this location?

15 A. Yes.

16 Q. And how many tracks are there?

17 A. Three.

18 Q. And the next slide. This is UP
19 Slide 5 in Group Exhibit 1. What does this show?

20 A. This is looking north from the
21 southside of the tracks just to see the other side
22 of where the tunnel will be.

1 Q. So the tunnel will come out of this
2 raised right of way area?

3 A. No. The tunnel will, again, be
4 underground, but this is where it would be.

5 Q. Okay. All right. If we could turn
6 the lights back on for a second. Why don't you
7 come back here and sit for a second.

8 Now, to get a feel for where
9 this tunnel is going. On what line of the Union
10 Pacific Railroad will this tunnel be installed?

11 A. Geneva.

12 Q. When you say Geneva, what do you
13 mean?

14 A. The Geneva subdivision.

15 Q. Of the Union Pacific Railroad?

16 A. Yes.

17 Q. Is that a line that has freight and
18 commuter transportation on it?

19 A. Yes.

20 Q. Is it the east/west main line of the
21 Union Pacific Railroad in the Chicago area?

22 A. Yes.

1 Q. Are there other commuter lines that
2 the Union Pacific has in the Chicago area?

3 A. Yes.

4 Q. What are they?

5 A. The Harvard and the Kenosha.

6 Q. And does one of those go north?

7 A. Yes.

8 Q. And one goes northwest?

9 A. Yes.

10 Q. Approximately, how many trains would
11 go over this site location on an average day?

12 A. 108.

13 Q. How many?

14 A. 108.

15 Q. How many of those are commuter
16 trains?

17 A. 60.

18 Q. How many are freight?

19 A. 48.

20 Q. And do you know what the speed of
21 the trains are at this location?

22 A. 70 miles per hour.

1 Q. 70 miles per hour?

2 A. (Affirmative nod.)

3 Q. That would be for the commuter

4 trains?

5 A. For both.

6 Q. For both. Okay. Now, let's go back

7 up to the slide here. This is a UP slide in UP

8 Group Exhibit 1. What does this show?

9 A. This gives you a layout of the

10 construction site. You can see this is the

11 existing depot that we were looking at before, but

12 it shows you where the tunnel is at on the prior

13 layout.

14 Q. Is the existing depot going to be

15 modified in any way as part of this project?

16 A. I can't answer that. He would be

17 able to.

18 Q. Is it going to be relocated, do you

19 know?

20 A. I can't answer that.

21 Q. But the site of the tunnel is where?

22 A. Right here.

1 Q. And it's depicted on the print as
2 a --

3 A. It says tunnel location here.

4 Q. Great. So where it says tunnel
5 location. And that's, again, to the east of South
6 Park Avenue, is that correct?

7 A. Yes.

8 Q. South Park Avenue it doesn't go
9 through this -- through the tracks, is that
10 correct?

11 A. No.

12 Q. It doesn't go through it?

13 A. No. Isn't that what you said?

14 Q. Yes.

15 A. No, it does not go through.

16 Q. Now, we have a detailed site plan.
17 Can you show us where the tunnel is again?

18 A. This gray area here is the tunnel.

19 Q. For purposes of the record, it's the
20 gray line that is going north and south on the
21 design plan, is that correct?

22 A. Yes.

1 Q. Okay. Now, for individuals that
2 would access and use this tunnel, are there a
3 series of stairs and ramps for handicap
4 accessibility?

5 A. Yes, you have ramps right here that
6 have access on the southside. These are the
7 stairs that would take you down and then on the
8 northside you have ramps and stairs again.
9 Probably on your copy you would be able to see the
10 arrows a little better, but those are the stairs.

11 Q. On the north, the people using this
12 tunnel would then be able to access what is called
13 Mitchell McGuire Drive, is that correct?

14 A. Yes.

15 Q. On the south, they would be able to
16 access that from West Parkside Avenue?

17 A. Yes.

18 Q. Thank you. Now, I'm going to show
19 you what is marked as UP Page 8 of the Group
20 Exhibit 1. Would you tell us what this is?

21 A. This just gives you a look from the
22 northside and you can see the tunnel. Actually,

1 it gives you both sides and you can see here it
2 says north elevation and south elevation and then
3 you're able to see where the tunnel is actually
4 located at on both sides below grade.

5 Q. So the tunnel is a 180 degree arch,
6 is that correct?

7 A. Yes.

8 Q. And when you say below grade, it's
9 below the platform of the station, is that
10 correct?

11 A. Yes.

12 Q. On both sides?

13 A. Yes.

14 Q. And this fencing and these walls is
15 this all going to be part of this project?

16 A. Yes.

17 Q. Now, I'm going to show you what is
18 UP Page 9 of Group Exhibit 1, what is this?

19 A. This is the view of the northside
20 looking at the platform.

21 Q. Now, on this particular picture, it
22 shows that there is a bunch of what appears to be

1 metal roofs, is that correct?

2 A. Yes.

3 Q. Are those metal roofs over the
4 actual platform where the people will wait for the
5 train?

6 A. Yes.

7 Q. And will that enhance the platform's
8 use so that -- from the weather?

9 A. Yes.

10 Q. Okay. Now, approximately, where on
11 this particular rendering is the tunnel?

12 A. Just to the left right here.

13 Q. So it doesn't really show on here
14 because it's underground, is that correct?

15 A. Yes.

16 Q. So you would go at this location and
17 then take the stairway or the ramp down to use the
18 tunnel?

19 A. Mm-hmm.

20 Q. Now, I'm going to show you the south
21 canopy elevation that has been marked as UP Page
22 10 of Group Exhibit 1. Are you familiar with this

1 one?

2 A. Yes.

3 Q. And is this like a mirror image of
4 the north?

5 A. Yes.

6 Q. So it shows the tunnel also, the
7 stairways and the ramps?

8 A. Yes.

9 Q. Can you indicate where the stairways
10 and ramps are?

11 A. Here is the stairway. Both of the
12 stairways that lead down from the separate sides
13 and then this is the ADA ramp. It zigzags back
14 and forth.

15 Q. The ramp is basically a switchback
16 for slope reasons?

17 A. Yes.

18 Q. And then this is UP Page 11 of UP
19 Group Exhibit 1. It's entitled Southside
20 Rendering. Again, this is just like the one we
21 saw before? It was the northside just proposing
22 what it will look like, is that correct?

1 A. Yes.

2 Q. And approximately where would the
3 tunnel be at this location?

4 A. Down on this end just in from the
5 car.

6 Q. And, again, it would have the
7 stairways and the ramps to get to it?

8 A. Yes.

9 Q. Okay. Now, I'm going to show you
10 what has been marked as UP Page 12 of Group
11 Exhibit 1. What is this?

12 A. This is the tunnel that we installed
13 at Winfield. So this would be the basic tunnel
14 that we would install anywhere on our lines.

15 Q. Now, does the Union Pacific
16 currently have a program where they're installing
17 pedestrian underpasses on the Geneva subdivision?

18 A. Yes.

19 Q. This is the one that was actually
20 constructed at Winfield station, is that correct?

21 A. Yes.

22 Q. What is the diameter of this

1 particular tunnel?

2 A. Ten feet.

3 Q. Are there similar tunnels to this
4 one being constructed at Bellwood and Berkeley?

5 A. Yes.

6 Q. Are they the same size?

7 A. Yes, ten feet.

8 Q. And the same configuration?

9 A. Yes.

10 Q. The tunnel that is going to be
11 constructed at Lombard, what is the size of that
12 tunnel?

13 A. Twelve feet.

14 Q. Now, I'm going to show you UP Page
15 13 of Group Exhibit 1. What is this?

16 A. This is the proposed layout for the
17 tunnel that Lombard is suggesting.

18 Q. And so it has some esthetic
19 enhancements to it?

20 A. Yes.

21 Q. And to your knowledge these changes
22 to the tunnel are requested by the Village of

1 Lombard, is that correct?

2 A. Yes.

3 Q. To your knowledge, will the Village
4 of Lombard be responsible for the cost to install
5 these enhancements?

6 A. Yes.

7 Q. Will they be responsible for the
8 maintenance of these enhancements?

9 A. Yes.

10 Q. Will they be responsible for the
11 reconstruction and rehabilitation of those
12 enhancements in the future?

13 A. Yes.

14 Q. And the -- I want to repeat this.
15 The work for this tunnel is going to be performed
16 by a contractor hired by Metra, is that correct?

17 A. Yes.

18 Q. So the exact nature of the
19 enhancements, that will be pursuant to an
20 agreement between the Village of Lombard and
21 Metra, is that correct?

22 A. Yes.

1 Q. And will Union Pacific to your
2 knowledge grant the Village of Lombard a permanent
3 license to access the tunnel for repair and
4 maintenance purposes and reconstruction purposes?

5 A. Yes, we will.

6 Q. Will the charge for that be \$1?

7 A. Yes.

8 Q. Now, I want to show you what has
9 been marked as page -- UP Page 14 of UP Group
10 Exhibit 1. What is this?

11 A. This is just an artist's rendition
12 of the same tunnel so it's more lifelike.

13 Q. Now, I'd like you to point out a
14 couple things on this if you would, please. Going
15 back and forth between slides 12 and 14. I want
16 to go to 12. I will try to go to 12. There we
17 go. On this particular tunnel, the surface for
18 the walkway is -- what is it?

19 A. Concrete.

20 Q. And it has a handrail, correct?

21 A. Mm-hmm.

22 Q. And it has a system of lights?

1 A. Yes.

2 Q. Does it also have security cameras?

3 A. Yes.

4 Q. It's relatively stoic, correct?

5 A. Yes.

6 Q. On the proposed tunnel, let's talk

7 about a couple of things that are proposed here.

8 The walkway is it merely concrete or is it changed

9 in any way, shape or form?

10 A. It's a different kind of concrete.

11 It's about an inch thick and you can have it

12 whatever color you want.

13 Q. So for esthetic purposes?

14 A. Yes.

15 Q. And is there a train system on the

16 side of the sidewalk?

17 A. Yes, you can see the two drains.

18 One right here and one on the right-hand side

19 also.

20 Q. Would you expect that from time to

21 time that that would have to be maintained and

22 cleaned?

1 A. Yes.

2 Q. And that would be the responsibility
3 of the Village of Lombard based on your
4 understanding?

5 A. Yes.

6 Q. And there is a set of lights on the
7 top of this, correct?

8 A. Yes.

9 Q. Was there a set of lights on the
10 stoic tunnel?

11 A. Not in this position.

12 Q. And then there's a knee wall. Can
13 you point that out?

14 A. This area right here that comes off
15 of the tunnel on both sides is a knee wall.

16 Q. So that's a concrete structure that
17 goes for the length of the tunnel on both sides?

18 A. Yes.

19 Q. And that has a more substantial I
20 guess --

21 A. Decorative.

22 Q. -- banister?

1 A. Yes.

2 Q. And indirect lighting?

3 A. Yes.

4 Q. And then a false ceiling for
5 architectural esthetics?

6 A. Yes.

7 Q. And then the outside of the tunnel
8 it has an enhancement that says you're in Lombard,
9 correct?

10 A. Yes.

11 Q. And some brickwork?

12 A. Yes.

13 Q. And on the outside there is rather
14 than just plain concrete it's more of an
15 architectural concrete, correct?

16 A. Yes.

17 Q. And then it also proposed that there
18 may be lighting on the outside also?

19 A. Yes.

20 Q. All of these would be part of the
21 enhancements that the Village of Lombard is asking
22 for?

1 A. Yes.

2 Q. Now, will there be security cameras
3 in this tunnel?

4 A. Yes.

5 Q. Do you know how many?

6 A. No.

7 Q. Do you know who will monitor the
8 security cameras?

9 A. Lombard police 24/7.

10 Q. The police department?

11 A. Mm-hmm.

12 Q. Thanks.

13 A. Sit back down?

14 Q. Sure. I'll leave that one up. So
15 this particular tunnel will be 12 feet rather than
16 ten feet in diameter, is that correct?

17 A. Yes.

18 Q. Is it a little bit more money?

19 A. Yes.

20 Q. And Metra will foot that bill, is
21 that correct?

22 A. Yes.

1 Q. Now, the slides that we showed
2 today, they have also been placed on a diskette?

3 A. Yes.

4 Q. And is this the diskette that is
5 marked as UP Exhibit 2 to your knowledge?

6 A. Yes.

7 (Document marked as UP Exhibit
8 No. 2 for identification.)

9 BY MR. SHUMATE:

10 Q. And those have been given to all the
11 participants in this hearing?

12 A. Yes.

13 Q. Now, I want to show you what has
14 been marked as UP Exhibit 3. What is this?

15 (Document marked as UP Exhibit
16 No. 3 for identification.)

17 BY THE WITNESS:

18 A. This is the incident report from
19 1999.

20 BY MR. SHUMATE:

21 Q. And what does it say, if anything?

22 A. That we had an individual that was

1 struck at the pedestrian crossing located at
2 Lombard by a passenger train.

3 Q. And was that the crossing that we're
4 saying would be closed when this tunnel is opened?

5 A. Yes.

6 Q. Now, I'm going to show you what has
7 been marked as UP Exhibit 4. What is this
8 document?

9 (Document marked as UP Exhibit
10 No. 4 for identification.)

11 BY THE WITNESS:

12 A. This is the second incident report
13 from 2003 that states that an individual was
14 struck by a freight train at that same location in
15 Lombard.

16 BY MR. SHUMATE:

17 Q. So that's that same pedestrian
18 crossing?

19 A. Yes.

20 Q. So to state again that is the
21 crossing that will be removed and replaced with
22 this underpass?

1 A. Yes.

2 Q. If this current pedestrian crossing
3 at grade is removed, will this -- and replaced by
4 the tunnel, will that in your opinion improve the
5 safety at the crossing?

6 A. Yes.

7 Q. In both of those instances, the
8 individual was killed, is that correct?

9 A. Yes.

10 Q. Okay. Let me ask you another
11 question here. This will permit in addition to
12 passengers on the -- that would either be on the
13 train, either getting off the passenger train or
14 onto the passenger train, commuter train, this
15 would also serve as an access for the general
16 public in the town to go from one side of the
17 tracks to the other, is that correct?

18 A. Yes.

19 Q. What is the timeframe for the work
20 on this project?

21 A. It is to be let this Spring of 2013
22 and then we have 24 months to complete the

1 project. The date that is actually listed for us
2 to be done by is December 31st of 2014.

3 Q. And that was in a petition, is that
4 correct?

5 A. Yes.

6 Q. And will you need additional time
7 since we're in January already?

8 A. Probably, yes.

9 Q. How much more time do you think it
10 will be?

11 A. Just to have the 24 months exactly
12 from when we're actually able to let it.

13 Q. So let me ask it this way. Would
14 you ask that the order show that Union Pacific and
15 Metra be permitted 24 months from the date of the
16 order to complete the final order, to complete
17 this project?

18 A. Yes.

19 Q. Is there anything that I've failed
20 to ask you that you think would be beneficial to
21 the Hearing Officer in this case that I failed to
22 ask?

1 A. No.

2 MR. SHUMATE: No further questions.

3 JUDGE KIRKLAND-MONTAQUE: Okay.

4 Mr. Smith, do you have any questions for the
5 witness?

6 MR. SMITH: I have a few. Thank
7 you, your Honor.

8 C R O S S E X A M I N A T I O N

9 BY MR. SMITH

10 Q. Ms. Anderson, I am an attorney for
11 the Village of Lombard and I just have a couple of
12 follow-up questions. You testified that there is
13 a base tunnel and the Village of Lombard has
14 requested upgrades to that base tunnel, correct?

15 A. Yes.

16 Q. And the cost of the base tunnel in
17 this matter will be paid by Metra and Union
18 Pacific, correct?

19 A. Yes.

20 Q. Does Lombard have any responsibility
21 to pay the cost of the base tunnel in this matter?

22 A. No.

1 Q. Lombard is responsible, however, for
2 paying the cost of the upgrades to the tunnel?

3 A. Yes.

4 Q. And is it the same that the
5 maintenance responsibilities for the base tunnel
6 will remain with either Metra or the railroad?

7 A. For the base tunnel, yes.

8 Q. And the maintenance responsibilities
9 for the upgrades will remain with the Village of
10 Lombard, correct?

11 A. Yes.

12 Q. Lombard is not responsible for
13 maintenance of the base tunnel, correct?

14 A. No.

15 Q. Is that a correct statement that I
16 made?

17 A. If there is maintenance that has to
18 be done to the base tunnel that involves moving a
19 portion of the upgrades or enhancements, then
20 there would have to be repairs done by Lombard to
21 the enhancements.

22 Q. But the responsibility for

1 maintaining the base tunnel itself would remain
2 with Metra or the Union Pacific Railroad, correct?

3 A. Yes.

4 Q. Thank you.

5 MR. SMITH: Nothing further.

6 JUDGE KIRKLAND-MONTAQUE:

7 Mr. Vercruysse, do you have questions of the
8 witness?

9 MR. VERCruysse: No questions, your
10 Honor. Thank you very much.

11 JUDGE KIRKLAND-MONTAQUE:

12 Mr. Shumate, any follow up?

13 MR. SHUMATE: I'd like to call Chris
14 Miller if I can.

15 D I R E C T E X A M I N A T I O N

16 BY MR. SHUMATE

17 Q. Could you state your name for the
18 record, please?

19 A. Yes. Christopher,
20 C-H-R-I-S-T-O-P-H-E-R, Miller, M-I-L-L-E-R.

21 Q. And, Mr. Miller, by whom are you
22 currently employed?

1 A. Union Pacific Railroad.

2 Q. How long have you worked for the
3 railroad and/or its predecessors?

4 A. A little over six years.

5 Q. And which department are you in?

6 A. Engineering.

7 Q. And do you work in the commuter
8 services department?

9 A. Yes.

10 Q. And what are your general
11 responsibilities at the railroad?

12 A. My general responsibilities I manage
13 new construction projects.

14 Q. What is your educational background?

15 A. BS in construction engineering.

16 Q. And are you familiar with this
17 project which is the subject of today's hearing?

18 A. Yes.

19 Q. Have you had an opportunity to visit
20 the site?

21 A. Yes.

22 Q. Are you familiar with the slides

1 that have been presented today as Union Pacific
2 Group Exhibit 1?

3 A. Yes.

4 Q. Now, I want to show you what has
5 been marked as Slide 6, UP 6, of that UP Group
6 Exhibit 1. Feel free to approach the screen. Can
7 you give us an overview of what this entire
8 project is?

9 A. This construction project -- the
10 limits are pretty much outlined with this dash
11 line. So everything within that dashed line is
12 going to be affected by this construction project.
13 Anything outside of it will be unaffected.

14 Q. Okay. And will the existing depot
15 stay the existing depot?

16 A. Correct.

17 Q. Other than the -- let me -- these
18 artists rendering for the northside and the
19 southside, can you explain those a little bit and
20 their relationship to this application for this
21 tunnel?

22 A. Meaning?

1 Q. How do they help the tunnel, hurt
2 the tunnel?

3 A. They help the tunnel with keeping
4 out snow, the elements, so we have an easier time
5 removing snow and less safety hazards for the
6 passengers.

7 Q. So the roofs that are there, they
8 will hopefully keep the elements out of the
9 tunnel?

10 A. Yes, that will help with the
11 elements as well. I believe the ramps and the
12 tunnel and stairs all Glycol heated as well in the
13 boiler room. So that will help with that as well
14 too.

15 Q. So there is an actual acquisition of
16 property that the Union Pacific and Metra made
17 from the Village of Lombard for the boiler room,
18 is that correct?

19 A. Correct.

20 Q. Was there anything else that you
21 care to add with regard to the tunnel itself that
22 we failed to ask?

1 A. No.

2 MR. SHUMATE: No further questions.

3 JUDGE KIRKLAND-MONTAQUE: Okay.

4 Mr. Smith?

5 MR. SMITH: I have no questions.

6 Thank you, your Honor.

7 JUDGE KIRKLAND-MONTAQUE:

8 Mr. Vercruysse?

9 MR. VERCruYSSE: No questions, your
10 Honor. Thank you.

11 JUDGE KIRKLAND-MONTAQUE: Okay. I
12 have a layperson question that perhaps one of your
13 witnesses can answer. How do you build a tunnel
14 without undermining the integrity of the tracks
15 above?

16 MR. MILLER: Generally, the tunnel
17 contractor will inject a type of grout into the
18 soil to stabilize the soil and they just bore out
19 with a boring machine. It's at an angle. So the
20 soil has no way of actually getting undermined
21 with the angle that the boring machine is at.
22 Whenever they jack it in, they jack a pipe right

1 behind it.

2 MR. SHUMATE: Maybe I can help a
3 little bit. It's like an auger?

4 MR. MILLER: No. This one is -- the
5 one they have is an auger. It's like a little
6 mini excavator inside of the machine that digs it
7 out while it's being pushed there.

8 MR. SHUMATE: Does it go in a circle
9 like that?

10 MR. MILLER: No, it's a claw like
11 this.

12 MR. SHUMATE: Okay.

13 JUDGE KIRKLAND-MONTAQUE:
14 Mr. Vercruysse?

15 MR. VERCRUYSSSE: How far below the
16 tracks is the tunnel, the top of the tunnel?

17 MR. MILLER: I have to look at the
18 plans.

19 MR. VERCRUYSSSE: That just gives an
20 idea of how far you're under the track structure
21 and this grouting system further solidifies to
22 make sure you don't have any of the movement

1 underneath, but the clearance is one of the main
2 factors in providing enough fill above the tunnel.

3 MS. ANDERSON: And the fact that the
4 steel tunnel is following right behind it, it's
5 already being supported almost instantaneously.

6 JUDGE KIRKLAND-MONTAQUE: Like a
7 steel tube?

8 MS. ANDERSON: Yes, that's the
9 actual tunnel. That is what they're pushing in.

10 MR. MILLER: It's right at about six
11 feet.

12 MS. ANDERSON: It's already going in
13 as you're pushing through.

14 JUDGE KIRKLAND-MONTAQUE: What was
15 the number? I'm sorry.

16 MR. MILLER: Six feet.

17 JUDGE KIRKLAND-MONTAQUE: That helps
18 me visualize how you do that.

19 MR. MILLER: They gently do the
20 grabbing like on the archway you have that stone
21 that kind of has the angle on it, the keystone.
22 They do the grouting in that shape so it acts as

1 like a keystone above the tunnels as they put it
2 in.

3 JUDGE KIRKLAND-MONTAQUE: Thank you.

4 MR. SHUMATE: Have we had any
5 problems with the tunnel at Winfield?

6 MR. MILLER: No.

7 MR. SHUMATE: How long ago was that
8 installed? Do you know?

9 MR. MILLER: I think about three
10 years. Three and a half years or so.

11 MR. SHUMATE: Okay. And it's the
12 same process as being used at Bellwood and
13 Berkeley?

14 MR. MILLER: Same company did all
15 three.

16 MR. SHUMATE: Are those tunnels
17 already installed?

18 MR. MILLER: Correct.

19 JUDGE KIRKLAND-MONTAQUE: Did you
20 have questions?

21 MR. VERCRUYSSSE: If you don't mind,
22 I'll just follow up with Mr. Miller then.

1 C R O S S E X A M I N A T I O N

2 BY MR. VERCRUYSSE

3 Q. The contractor north and south of
4 the tracks, do you anticipate they'll dig large
5 pits to allow --

6 A. They'll have a jacking pit and a
7 receiving pit.

8 Q. Right. So in that respect you're
9 going to have McGuire Drive and possibly Parkside
10 closed to vehicular traffic and pedestrian during
11 the construction?

12 A. I believe the jacking pit will be on
13 Parkside on the southside because that's where
14 you've got the most area for it and the receiving
15 pit will be on the northside of Michael McGuire
16 and that will be in phase one of the construction.

17 Q. Okay. And then you'll have the six
18 foot clearance under the top to the top of the
19 pipe?

20 A. Correct.

21 MR. SHUMATE: How long will those
22 roads actually be out of service, do you know?

1 MR. VERCRUYSSSE: Can I just do one
2 follow up, Mack, and I'll be --

3 MR. SHUMATE: I apologize.

4 MR. VERCRUYSSSE: This falls in line
5 and this was the line of questioning also.

6 BY MR. VERCRUYSSSE:

7 Q. Have you coordinated the traffic
8 patterns and the construction phasing with the
9 village and is it acceptable to the village?

10 A. We've done minor coordination just
11 to see what timeline works best. I know we spoke
12 with them and after their Lilac Days is when we
13 proposed the starting of that jacking pit so they
14 can still have access to that drive during the
15 festival and then I think that's the first or
16 second week of May and then after that we were
17 going to start digging out and closing the street
18 for the jacking pit. So there has been some basic
19 coordination as to which will work best.

20 MR. VERCRUYSSSE: Thank you very
21 much, Mr. Miller.

22 JUDGE KIRKLAND-MONTAQUE:

1 Mr. Shumate, did you have follow up?

2 MR. SHUMATE: Just the one question.

3 R E D I R E C T E X A M I N A T I O N

4 BY MR. SHUMATE

5 Q. Do you know approximately how long
6 for each of the roads they will be out of service?
7 Do we know?

8 A. I would believe my best guess would
9 be about two to three months.

10 Q. Okay. And would it be at the same
11 time north and south or will they have a stagger
12 schedule?

13 A. South will be a little more than
14 north.

15 Q. A little bit more time on the south?

16 A. A little bit more time just because
17 it's a bigger pit.

18 MR. SHUMATE: No further questions.

19 MR. SMITH: I have one follow up,
20 your Honor.

21 JUDGE KIRKLAND-MONTAQUE: Go ahead.

22 MR. SMITH: Thank you.

1 C R O S S E X A M I N A T I O N

2 BY MR. SMITH

3 Q. Mr. Miller, is it true that Parkside
4 Drive will have one lane open for one-way traffic
5 during the construction, if you're aware?

6 A. I am not aware if it will or not. I
7 have to look at the dimensions of the jacking pit.

8 MR. SMITH: Thank you.

9 JUDGE KIRKLAND-MONTAQUE: Anything
10 further, Mr. Shumate?

11 MR. SHUMATE: Just that working with
12 the staff attached to the petition was a proposed
13 order. That order would be modified pursuant to
14 the testimony today and that also I believe the
15 village wanted to include in the order some things
16 with regard to the enhancements to the tunnel, but
17 I'll let them address that.

18 JUDGE KIRKLAND-MONTAQUE: Okay. All
19 right. Mr. Smith, I'll give you the opportunity
20 to present the village's position.

21 MR. SMITH: Thank you, your Honor
22 I'd like to call my witness at this time.

1 JUDGE KIRKLAND-MONTAQUE: Okay.

2 MR. SMITH: Mr. David Dratnol?

3 MR. SHUMATE: Do you want to come
4 over here?

5 JUDGE KIRKLAND-MONTAQUE: You can
6 sit right there is fine. Just scoot up a little
7 bit.

8 D I R E C T E X A M I N A T I O N

9 BY MR. SMITH

10 Q. Mr. Dratnol, are you currently
11 employed by the Village of Lombard?

12 A. Yes.

13 Q. Are you the village's engineer?

14 A. Yes.

15 Q. Have you been in that role for 14
16 years?

17 A. Yes.

18 Q. Are you a licensed engineer?

19 A. Yes, I'm a licensed professional
20 engineer.

21 Q. By the State of Illinois?

22 A. By the State of Illinois.

1 Q. Mr. Dratnol, are you familiar with
2 the tunnel that we've been talking about today?

3 A. Yes, I've reviewed the plans.

4 Q. And as the village engineer, did you
5 also review a document entitled Opinion of
6 Probable Cost One Hundred Percent Plans?

7 A. Yes.

8 MR. SMITH: I'd like to hand a copy
9 of this document to the witness and, counsel,
10 staff and your Honor. Thank you. If we could
11 mark this as Village Exhibit 1, please.

12 (Document marked as Village
13 Exhibit No. 1 for
14 identification.)

15 BY MR. SMITH:

16 Q. Now, Mr. Dratnol, you reviewed this
17 document previously, correct?

18 A. Yes.

19 Q. Can you describe in general terms
20 what is contained in this document?

21 A. This document is an estimate of cost
22 and an opinion of probable construction cost

1 prepared by the design engineer for the project.
2 It includes basically all the major elements of
3 the work.

4 Q. And who is the entity that put this
5 opinion together?

6 A. HR Green.

7 Q. And is it true that on this document
8 there are costs laid out in black text and costs
9 laid out in red text?

10 A. Yes.

11 Q. Can you describe what the difference
12 is in responsibility for the black text versus red
13 text to your knowledge?

14 A. The cost elements in red would be
15 the village's costs.

16 Q. Are the items in red the upgrades
17 that the village has requested for this tunnel?

18 A. Yes.

19 Q. So is it the case that if we look at
20 the second to last page at the bottom where there
21 is a cost breakdown according to this opinion of
22 probable cost Metra and UP, including their ten

1 percent contingency, are responsible for
2 \$5,459,117?

3 A. Yes.

4 Q. And the Village of Lombard,
5 including it's ten percent contingency, is
6 responsible for \$157,725 in costs?

7 A. Yes.

8 Q. And as you stated previously the
9 village's costs are those items listed in red in
10 Village Exhibit 1, correct?

11 A. Correct.

12 Q. So these are the items in which the
13 village is agreeing to be responsible for the
14 maintenance of, correct?

15 A. Correct.

16 Q. Is the village in support of the
17 tunnel project that we're speaking of here today?

18 A. Yes.

19 Q. Would the village like to see it
20 built?

21 A. Yes.

22 Q. Does the village believe that it

1 would enhance the safety of both the residents of
2 the village and visitors to it?

3 A. Absolutely.

4 Q. Now, briefly before we finish, can
5 you tell me the village has requested upgrades to
6 the esthetics of the tunnel, correct?

7 A. Yes.

8 Q. And the village has also requested
9 upgrades to the tunnel relating to security,
10 correct?

11 A. Yes.

12 Q. It appears that there will be a
13 number of surveillance cameras installed as part
14 of the village's upgrades, correct?

15 A. Yes.

16 Q. And those cameras will be monitored
17 by the police department, correct?

18 A. Correct.

19 Q. Is there any other testimony you
20 would like to share with the judge in this matter
21 before we rest our case, Mr. Dratnol?

22 A. No.

1 MR. SMITH: Thank you. That's it.

2 JUDGE KIRKLAND-MONTAQUE: Any
3 questions, Mr. Shumate?

4 MR. SHUMATE: Yes, one moment, your
5 Honor. I'm just trying to make sure that we have
6 all the red that there should be. I'll double
7 check it.

8 MR. VERCRUYSSSE: Your Honor, if I
9 may, at this time, staff will work with the
10 parties to finalize the agreed order that was
11 attached to the petition and make the revisions
12 per the testimony today as well as go through any
13 detail, more of this cost estimate. Staff notes
14 that item 91, limestone arch and wall panels,
15 probably should be noted to the village and
16 highlighted in red instead of black as it
17 currently is.

18 So instead of trying to make
19 sure we cover every one just at this moment we'll
20 include it and maybe off the record we can discuss
21 the format of the agreed order with you whether
22 you'd like this as an attachment to the order or

1 somehow integrated into the order and text.

2 MR. SMITH: That's right, Judge.

3 The village would request that our
4 responsibilities be set forth in detail in either
5 the body of the order or in an attachment so that
6 going forward if a claim is made with the village
7 or Metra or the railroad is responsible for
8 maintenance of a particular item, we have your
9 Honor's guidance in the order as to who is
10 responsible for what.

11 MR. SHUMATE: The railroad concurs
12 with that.

13 JUDGE KIRKLAND-MONTAQUE: Okay.
14 That's fine and perhaps you can present this as a
15 late filed exhibit once you go over it and you're
16 in concurrence with the numbers.

17 MR. SHUMATE: Yes.

18 JUDGE KIRKLAND-MONTAQUE: And we can
19 definitely have it referenced in the order as a
20 guide to go by.

21 MR. SMITH: Thank you, your Honor.

22 MR. VERCRUYSSSE: Thank you, your

1 Honor.

2 MR. SHUMATE: Thank you, your Honor.

3 JUDGE KIRKLAND-MONTAQUE: With that,
4 Mr. Shumate, did you want to take time now or do
5 you want --

6 MR. SHUMATE: No. I think the
7 engineers will talk among themselves and they'll
8 reach an agreement as to what should be on and off
9 of it. As Mr. Vercruysse said there is one item
10 there that sticks out probably that should be
11 modified, but generally it looks okay and I'm sure
12 the engineers will come to an agreement. Whatever
13 it is we'll put that in the order either as an
14 attachment or -- is there anything glaring on it?

15 MS. ANDERSON: Just anything that
16 has to do with the enhancements of the tunnel
17 would be included in that.

18 MR. SMITH: Judge, the village is
19 fine with doing some negotiations making sure this
20 document is accurate before it's submitted for
21 inclusion. We have -- the village will be in
22 discussions with the parties.

1 JUDGE KIRKLAND-MONTAQUE: Okay.

2 Sounds good. So with that, Mr. Vercruysse, I'll
3 ask you to give me staff's position on the
4 project.

5 MR. VERCRUYSSSE: Thank you, your
6 Honor. If we could put UP Slide 6 up and bear
7 with me, your Honor, there's a little history I'd
8 like to go through as far as the Park Avenue
9 crossing itself and the past Commission orders
10 that were entered relative to this location.

11 MR. SHUMATE: Is this the correct
12 slide?

13 MR. VERCRUYSSSE: Yes. Thank you
14 very much, Mr. Shumate. On the right-hand side,
15 you'll note there's a South Main Street. That is
16 a current vehicular underpass within the village
17 and it has a long history going back to 1893. In
18 1893, it had a center pier. It was of a vertical
19 clearance of approximately 11'9" and it was
20 something that needed to be upgraded as the years
21 passed by and that occurred first in 1923 and then
22 again with the Village of Lombard in 1986 and

1 Commission Docket No. 86-0081 goes through the
2 modern reconstruction of that Main Street
3 underpass. At that time, the center pier was
4 removed. It allowed for five lanes in each
5 direction and the vertical clearance was improved.

6 That is the major point relative
7 to Park Avenue which is the subject matter today.
8 At that time with the raising of the track to get
9 the elevations correct, South Park Avenue, which
10 had been open to roadway and pedestrian users at
11 that time, was converted to a pedestrian only
12 location under agreement with the Chicago
13 Northwestern Railroad and the village.

14 At that time, if I may, from the
15 order itself from the Commission that was entered
16 on June 11th, 1986, and then subsequent to that
17 there was a reopened matter, the pedestrian
18 crossing of the railroad at Park Avenue will serve
19 two purposes.

20 One, to permit people within the
21 village to walk across the railroad at that point
22 between the business district on the north and the

1 library and Lilacia Park on the south. And, two,
2 to permit commuters using the station to have
3 access between the two platforms and parking lots.
4 Stairway and handicap ramp access will be provided
5 for pedestrian access to this crossing. That is
6 significant, your Honor, in the fact that we have
7 a wider tunnel that is proposed versus the other
8 locations and it is not a location that is just to
9 serve the commuters for Metra. It is to serve the
10 community at large.

11 So in terms of the ordering
12 paragraphs of this Commission order for Docket
13 86-0081 "It is further ordered that the grade
14 crossing of Park Avenue with tracks of the Chicago
15 Northwestern Transportation Company be and it is
16 hereby closed and abolished to vehicular traffic
17 provided, however, that a timber pedestrian
18 crossing shall be retained in the area of Park
19 Avenue and further provided that pedestrian type
20 flashing light signals and bell automatically
21 activate on approach of trains shall be installed
22 by the Chicago Northwestern Transportation Company

1 as a project at its expenses and, thereafter,
2 maintained at railroad's expense."

3 With the construction of the
4 tunnel, we, of course, agree with the closure of
5 the pedestrian access point as it was highlighted
6 in the previous Commission order. So the order
7 that we will work with parties and revise will
8 note upon completion of the new tunnel location
9 that the at-grade crossing for pedestrian access
10 will be closed and abolished. So that will close
11 the chapter on how we started from the South Main
12 Street tunnel to the Park Avenue roadway crossing
13 that turned to pedestrian only and now is a
14 pedestrian grade separation or a tunnel location.

15 So to summarize this, staff is
16 in great support of the project, but wanted to
17 provide a history and what the purpose of this
18 location was.

19 JUDGE KIRKLAND-MONTAQUE: Okay.

20 MR. VERCRUYSSSE: Thank you, your
21 Honor.

22 JUDGE KIRKLAND-MONTAQUE: Thank you.

1 So in the order, there will be language closing
2 the at-grade pedestrian crossing.

3 MR. VERCRUYSSSE: That is correct. I
4 don't believe there is any objections from the
5 parties.

6 MR. SHUMATE: No objection at all
7 from the standpoint of the Union Pacific Railroad.

8 MR. SMITH: The village does not
9 object either.

10 MR. VERCRUYSSSE: That's fine. We'll
11 wrap it all up then. Okay. Is there anything
12 further that anyone else --

13 MR. SHUMATE: Yes. At this time,
14 your Honor, I'd like to move that the evidence
15 that we presented here on behalf of the railroad
16 that would be Union Pacific Group 1, the slides
17 which has been marked UP Exhibit 2 and the two
18 incident reports, the UP Exhibit 3 and UP Exhibit
19 4, be accepted into the record.

20 JUDGE KIRKLAND-MONTAQUE: What was
21 two?

22 MR. SHUMATE: Two is a diskette of

1 the slides that were presented today for easy
2 access.

3 JUDGE KIRKLAND-MONTAQUE: Any
4 objection to the admission of UP Group Exhibit 1,
5 2, 3, or 4?

6 MR. SMITH: No, your Honor.

7 MR. VERCRUYSSSE: No objection by
8 staff, your Honor.

9 JUDGE KIRKLAND-MONTAQUE: UP Group
10 Exhibit 1 is admitted as well as UP Exhibit 2, 3
11 and 4 are also admitted, your Honor.

12 MR. SHUMATE: Thank you, your Honor.

13 MR. SMITH: Your Honor, the village
14 requests that its Exhibit 1, the opinion of
15 probable cost, be admitted into evidence and the
16 record as well.

17 JUDGE KIRKLAND-MONTAQUE: Did you
18 want to review that and make it more accurate or
19 are you going to present another one after this?

20 MR. SMITH: Judge -- I'm sorry, your
21 Honor, that's right. You mentioned the late
22 filing of the exhibit once it's been -- once it's

1 been modified. So I'll withdraw my request for
2 admission of that exhibit.

3 JUDGE KIRKLAND-MONTAQUE: Okay. And
4 I will grant you leave to file a late filed
5 exhibit --

6 MR. SMITH: Thank you.

7 JUDGE KIRKLAND-MONTAQUE: -- so we
8 can get that in the record.

9 MR. SHUMATE: The Union Pacific
10 Railroad concurs with the late filed exhibit.

11 JUDGE KIRKLAND-MONTAQUE: Okay. So
12 you can file that and you can do that at the same
13 time you do the order. So, with that, I think we
14 can mark the record heard and taken and we can go
15 off the record now and work out the finalities.

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